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NOV 27 2017

BY U.S. CERTIFIED MAIL

November 16, 2017

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Attorney General
U.S. Department of Justice
Citizen Suit Coordinator
Room 2615
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: *Orange County Coastkeeper v. Bristol Industries, LLC*,
United States District Court Case No. 8:17-cv-00471-JVS-JCG
Settlement Agreement; 45-day review

Dear Citizen Suit Coordinators,

On November 16, 2017, the parties in the above-captioned case entered into a consent decree setting forth mutually agreeable settlement terms to resolve the matter in its entirety. Pursuant to the terms of the Consent Decree and 40 C.F.R. § 135.5, the enclosed consent decree is being submitted to the U.S. Environmental Protection Agency and the U.S. Department of Justice for a 45-day review period. If you have any questions regarding the consent decree, please feel free to contact me or counsel for Defendant listed below. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Doug J. Chermak'.

Douglas J. Chermak
Attorneys for Plaintiff Orange County Coastkeeper

cc via First Class Mail: Alexis Strauss, Acting Regional Administrator, EPA Region 9

cc via e-mail: Timothy Bergere, Counsel for Defendant,
tbergere@mmwr.com

Encl.

NOV 27 2017

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Attorneys for Defendant

BRISTOL INDUSTRIES, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ORANGE COUNTY

COASTKEEPER, a California non-
profit corporation,

Plaintiff,

vs.

BRISTOL INDUSTRIES, LLC, a
Delaware corporation,

Defendant.

Case No. 8:17-cv-00471-JVS-JCG

[PROPOSED] CONSENT DECREE

**(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 *et seq.*)**

[PROPOSED] CONSENT DECREE

1 Case No. 8:17-cv-00471-JVS-JCG

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ORANGE COUNTY COASTKEEPER
Colin Kelly (State Bar No. 266956)
E-mail: Colin@coastkeeper.org
3151 Airway Avenue, Suite F-110
Costa Mesa, CA 92626
Tel: (714) 850-1965

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1 Management Practices (“BMPs”), which must be included and updated in the
2 SWPPP; and 4) when necessary, implement additional BMPs to prevent or reduce
3 pollutants that are causing or contributing to any exceedance of water quality
4 standards in a receiving water;

5 **WHEREAS**, on January 9, 2016, Coastkeeper served Bristol, the Administrator
6 of the United States Environmental Protection Agency (“EPA”), the Executive
7 Director of the State Water Resources Control Board (“State Board”), the Executive
8 Officer of the Santa Ana Regional Water Quality Control Board (“Regional Board”),
9 the U.S. Attorney General, and the Regional Administrator of the EPA (Region 9)
10 with a notice of intent to file suit under Sections 505(a)(1) and (f) of the Clean Water
11 Act, 33 U.S.C. § 1365(b)(1)(A) (“60-Day Notice letter”), alleging violations of the
12 Act and the Permit at the Facility;

13 **WHEREAS**, on March 16, 2017, Coastkeeper filed a complaint against Bristol
14 in the United States District Court, Central District Court of California, entitled
15 *Orange County Coastkeeper v. Bristol Industries, LLC* (Case No. 8:17-cv-00471-JVS-
16 JCG); alleging violations of Section 301(a) of the Clean Water Act, 33 U.S.C. §
17 1311(a), and violations of the Permit at the Facility (“Complaint”) based on the 60-
18 Day Notice letter;

19 **WHEREAS**, Coastkeeper contends in its 60-Day Notice letter and Complaint
20 that, among other things, Bristol has repeatedly discharged storm water exceeding
21 Numeric Action Levels established for certain Waters of the United States to which
22 Bristol discharges its storm water under the Permit, which discharges violate Bristol’s
23 Permit and the Clean Water Act;

24 **WHEREAS**, Bristol denies all allegations set forth in the 60-Day Notice letter
25 and Complaint relating to the Facility and specifically contends that it has taken all
26 necessary and appropriate actions specified in the Permit to manage storm water
27 discharges from the Facility in compliance with the Permit and Clean Water Act;
28

1 **WHEREAS**, since it acquired its interest in the Facility in March 2014, before
2 issuance of Coastkeeper's 60-Day Notice Letter, Bristol has invested millions of
3 dollars in Facility improvements, BMPs and other measures;

4 **WHEREAS**, the Settling Parties, through their authorized representatives and
5 without either adjudication of Coastkeeper's claims or Bristol's factual or legal
6 defenses, and without admission by Bristol of any alleged violation or wrongdoing,
7 believe it is in their mutual interest and choose to resolve in full Coastkeeper's
8 allegations in the 60-Day Notice letter and Complaint through settlement and avoid
9 the cost and uncertainties of further litigation;

10 **WHEREAS**, all actions taken by Defendant pursuant to this Consent Decree
11 shall be made in compliance with all applicable federal and state laws and local rules
12 and regulations;

13
14 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE**
15 **SETTLING PARTIES, AND ORDERED AND DECREED BY THE COURT,**
16 **AS FOLLOWS:**

17 1. The Court has jurisdiction over the subject matter of this action pursuant
18 to Section 505(a)(1)(A) of the Clean Water Act, 33 U.S.C. § 1365(a)(1)(A);

19 2. Venue is appropriate in the Central District of California pursuant to
20 Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the Facility
21 is located within this District;

22 3. The Complaint states claims upon which relief may be granted pursuant
23 to Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1);

24 4. Plaintiff has standing to bring this action;

25 5. The Court shall retain jurisdiction over this matter for purposes of
26 enforcing the terms of this Consent Decree for the life of the Consent Decree, or as
27 long thereafter as is necessary for the Court to resolve any motion to enforce this
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1 Consent Decree.

2 **I. OBJECTIVES**

3 6. It is the express purpose of the Settling Parties entering into this Consent
4 Decree to further the objectives set forth in the Clean Water Act, 33 U.S.C. §§ 1251,
5 *et seq.*, and to add additional procedures or practices at the Facility as specified herein
6 related to storm water management, with the goal of improving storm water
7 management capabilities at the Facility and to bring the Facility into greater
8 compliance with the Clean Water Act. In light of these objectives and as set forth
9 fully below, Bristol agrees to comply with the provisions of this Consent Decree in
10 addition to, and not in lieu of its on-going work to comply with the requirements of
11 the Permit and all applicable provisions of the Clean Water Act; nothing in this
12 Consent Decree is intended to modify or amend the Facility's Permit.

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14 **II. AGENCY REVIEW, EFFECTIVE DATE, TERM OF CONSENT**
15 **DECREE, AND EARLY TERMINATION**

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17 7. **Agency Review:** Plaintiffs shall submit this Consent Decree to the
18 United States Department of Justice and the U.S. EPA (collectively "Federal
19 Agencies") within three (3) business days of the final signature of the Settling Parties
20 for agency review, consistent with 40 C.F.R. § 135.5. In the event that the Federal
21 Agencies object to entry of this Consent Decree, the Settling parties agree to meet and
22 confer to attempt to resolve issue(s) raised by the Federal Agencies within a
23 reasonable amount of time. Following the Federal Agencies' review, the Parties shall
24 submit the Consent Decree to the Court for entry.

25 8. **Effective Date:** The Effective Date of this Consent Decree shall mean
26 the day this Consent Decree is entered by the Court.

27 9. **Term of Consent Decree:** This Consent Decree shall terminate three (3)
28 years from the Effective Date, unless there is an ongoing, unresolved dispute

1 regarding Bristol's compliance with the Consent Decree, in which case the Consent
2 Decree will terminate within fifteen (15) days of notice by the Settling Parties that the
3 dispute has been fully resolved.

4 **10. Early Termination:** If Bristol's should cease industrial operations at the
5 site and file a Notice of Termination ("NOT") under the Storm Water Permit before
6 the termination date of this Consent Decree, Bristol shall send Coastkeeper a copy of
7 the proposed NOT concurrent with its submittal to the Regional Board. Within ten
8 (10) days of the Regional Board's approval of the NOT, Bristol's shall notify
9 Coastkeeper in writing of the approval and promptly pay all amounts then due
10 hereunder as provided herein. In the event a new successor or assign continues
11 industrial operations at the site and assumes responsibility for implementation of this
12 Consent Decree, Bristol shall notify Coastkeeper within ten (10) days of the transition.

13 **III. COMMITMENTS OF BRISTOL**

14 **A. Storm Water Pollution Control Best Management Practices**

15 **11.** In addition to maintaining the current BMPs at the Facility, Bristol shall
16 develop and implement the BMPs identified herein, as well as any other BMPs
17 necessary to comply with the provisions of this Consent Decree and the Permit.
18 Specifically, Bristol shall develop and implement BMPs consistent with the BAT and
19 BCT standards as required by the Permit, to prevent and/or reduce contamination in
20 storm water discharged from the Facility, and to comply with applicable water quality
21 standards.

22 **12.** Listing the BMPs identified herein shall not preclude Bristol from
23 implementing other BMPs not listed, and does not require amendment of this Consent
24 Decree in the event that Bristol implements additional BMPs beyond those listed or
25 substitute BMPs that are intended to assist the Facility in achieving lower
26 concentrations of the Table 1 values for those pollutants listed herein, or if changes in
27 operations or the industrial activities at the Facility eliminate pollutant sources
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1 identified in the SWPPP and/or this Consent Decree, making the BMPs previously
2 associated with those pollutant sources unnecessary. Bristol shall notify Coastkeeper
3 of BMP changes pursuant to the notice sections of this Consent Decree.

4 13. **Bioswale:** Bristol shall complete installation of the bioswale to treat and
5 partially retain storm water discharges from the all industrial areas at the Facility, as
6 identified in the revised SWPPP. The onsite storm water associated with industrial
7 activity will be directed to the bioswale via surface flow as well as sub-surface
8 conveyance structures.

9 14. Bioswale Capacity: The bioswale shall have a capacity of not less than
10 12,000 square feet yielding not less than 4,000 cubic feet of treatment for storm water
11 generated from precipitation on the Brea Facility.

12 15. Bristol shall maintain the bioswale in accordance with the design
13 engineer's specifications throughout the term of this Consent Decree.

14 16. Bioswale Inspection Logs: Upon completion of the bioswale, Bristol
15 shall inspect the completed Bioswale not less frequently than monthly. Bristol's
16 annual storm water report shall include monthly photographs of the bioswale taken
17 during each monthly inspection specified under the Permit. The Bioswale monthly
18 inspection record maintained by Bristol under the Permit shall be made available for
19 inspection by Coastkeeper at any site inspection or otherwise within thirty (30) days
20 of an advance request by Coastkeeper.

21 22 17. Structural Improvements: Bristol shall implement the structural
23 improvements in accordance with the schedule herein. During the term of this
24 Consent Decree, Bristol shall inspect and maintain such structural improvements in
25 good operating condition and shall promptly repair any damaged or degraded
26 structural BMPs. Within fourteen (14) days of each of the above improvements,
27 Bristol shall e-mail Coastkeeper digital photographs confirming said improvements.

28 18. Maintenance and Repair Record for BMPs: Beginning on the Effective

1 Date of installation, Bristol shall note in its monthly storm water facility and BMP
2 inspection report, its maintenance and repair activities to BMPs required hereunder
3 which were undertaken in the preceding calendar month, or which are planned for the
4 next calendar month. For each structural BMP, the note shall include the location of
5 the structural BMP, the date and time of the repair, and the identity of the person
6 performing the repair.

7 19. **Additional BMPs:** The BMPs included in this Section constitute a
8 preliminary approach to storm water management at the Facility for the first year of
9 the Consent Decree. If, after implementation of these BMPs, the sampling conducted
10 in accordance with Section IV of this Consent Decree indicates the Facility's storm
11 water discharges exceed the Numeric Limits in Table 1 or do not meet applicable
12 water quality standards, Bristol, in accordance with its Permit and applicable law as
13 well as with this Consent Decree, shall promptly develop and implement such
14 additional BMPs as may be necessary to further reduce concentrations of the
15 contaminants of concern.

16 20. **Structural Improvements to Storm Water Management Measures at**
17 **the Facility.** By January 1, 2018, unless otherwise indicated, Bristol shall implement
18 the following structural improvements to storm water management at the Facility:
19

20 20.1. By January 1, 2018, Bristol shall engage the services of a professional
21 engineer and contractor to survey and design a revised storm water
22 drainage system for the west side of the Facility from the shipping and
23 receiving area south to the Waste Water Treatment Unit 1. This drainage
24 system shall be designed to better convey larger volumes of rainwater
25 accumulating in the area adjacent to the truck dock, parking lot, driveway
26 areas, and contact areas surrounding the waste water treatment unit via
27 appropriate conveyance to the head of the bio-swale as determined from
28 the initial survey and design. Subject to permitting and contracting

1 constraints, Bristol shall implement the revised system within 180 days
2 of the Effective Date of this Consent Decree.

3 20.2. Bristol shall purchase and implement Ultra Filter Socks (HMRM 1.0 for
4 Heavy Metals and SORB 44 for Oils and Hydrocarbons) on the storm
5 water drains that to the bio-swale located from the parking lot (SORB 44)
6 to the Waste Water Treatment Area (HMRM 1.0).

7 20.3. Within ninety (90) days of the Effective Date of this Consent Decree,
8 Bristol shall inspect, repair, paint and/or replace the deteriorating siding
9 on Building 2.

10 20.4. By January 1, 2018, Bristol shall engage the services of a contractor to
11 survey and recommend repairs to the pavement in the chemical storage
12 area, and recommended repairs shall be made within one hundred eighty
13 (180) days of the Effective Date of this Consent Decree.

14 20.5. By March 1, 2018, Bristol shall implement curbing or re-route the
15 following storm water discharges/flows:

16 20.5.1. The west side of Building 1 in the vicinity of the downspout.

17 20.5.2. The downspout on the west side of Building 2 that flows
18 towards the curbed area for the scrubber.

19 20.5.3. The downspout drainage from Abrasive Blasting Building
20 from southward-directed to northward-directed, such that
21 the downspout drainage flows toward the access road and
22 away from the hazardous waste and chemical storage area.

23 20.6. Within fourteen (14) days of each of the above improvements, Bristol
24 shall e-mail Coastkeeper digital photographs confirming said
25 improvements.
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27 20.7. The parties recognize that Bristol may have commenced and/or
28 completed some of these measures described in this Paragraph 20, and

1 Paragraph 21 below, prior to the Effective Date of this Consent Decree.
2 Nothing herein is intended, nor shall it be construed as requiring that any
3 such completed work be redone, and for purposes of interpretation,
4 deadlines for e-mail notifications required hereunder for work completed
5 prior to the Effective Date shall run from the Effective Date of this
6 Consent Decree.

7 21. **Non-Structural Storm Water Management Practices:** Bristol shall
8 implement the following storm water management measures:

9 21.1. Housekeeping Improvements: Within ninety (90) days of the Effective
10 Date of this Consent Decree, Bristol shall implement the following
11 improvements to housekeeping measures at the Facility:

12 21.1.1. To reduce the potential for entrainment of dust and other
13 pollutants that might be mobilized during storm events,
14 Bristol shall clean out the cracks in the pavement on the
15 west side of Building 1.

16 21.1.2. Bristol shall relocate the filter cake bins to a covered area.

17 21.1.3. Bristol will evaluate increasing the frequency of sweeping
18 (e.g., sweeping before predictable rain events) and
19 investigate alternatives that may include the use of a walk
20 behind sweeper or a ride along sweeper with a dust hopper
21 to capture the swept matter for disposal.

22 21.1.4. To filter potential pollutants deposited on the roofs of
23 buildings at the Facility where manufacturing occurs, Bristol
24 shall evaluate the use of downspout filters (such as and/or
25 comparable to BioClean's Downspout, the downspout
26 filtration system by CleanWay, the Flogard by Kristar, or
27 equivalent) on, at a minimum, 5 out of the 12 downspouts
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on Building 1 and all 5 downspouts on Building 2.

21.1.5. Within fourteen (14) days of each of the above improvements, Bristol shall e-mail Coastkeeper digital photographs confirming said improvements. With respect to the measure in Paragraph 10(c), Bristol shall e-mail Coastkeeper an update describing the decision regarding the sweeping measures and downspout treatment devices.

21.2. Rain Gauge: Bristol shall install a rain gauge capable of measuring and recording rainfall from at least 0.1 inches at the Facility. Bristol shall provide rain gauge data to Coastkeeper within fourteen (14) days of receipt of a written request by Coastkeeper. Bristol shall use rain gauge data to evaluate the effectiveness of the Bioswale in retaining storm water generated by qualifying storm events, and record such effectiveness calculations in the annual storm water report referenced in Paragraph 16.

B. Employee Training

22. Training Program: Within forty-five (45) days of the Effective Date, Bristol shall develop and have begun to implement an employee training program to ensure: (1) that there are sufficient numbers of employees delegated to achieve compliance with the Storm Water Permit and this Consent Decree; and (2) that these responsible employees are appropriately trained to perform the activities required under the Permit and this Consent Decree ("Training Program"). At a minimum, the Training Program shall require the following:

23. SWPPP and BMP Training: Bristol shall train all employees who are responsible for implementing activities necessary to meet elements of the SWPPP ("Responsible Employees"), or who work in areas where industrial materials or activities are exposed to storm water, on the SWPPP and on the

1 BMPs added under this Consent Decree to ensure that BMPS are implemented
2 effectively and on schedule, and that structural BMPs are maintained properly.
3 Bristol shall train such employees and Responsible Employees on their specific
4 responsibilities in implementing BMPs. The training must include proper
5 handling (collection, storage, and disposal) of hazardous materials.

6 24. Storm Water Sampling Training: Bristol shall designate an
7 adequate number of employees necessary to collect storm water samples as
8 required by this Consent Decree. The Training Program shall include the
9 proper sampling protocols, including chain of custody requirements, to ensure
10 storm water samples are properly collected, stored, and submitted to a certified
11 laboratory or analyzed onsite, as applicable.

12 25. Frequency: The Training Program shall be repeated annually, or as
13 necessary to ensure that all Responsible Employees and employees, as the case
14 may be, are familiar with the requirements of this Consent Decree and the
15 Storm Water Permit.

16 26. New Employees: All new staff who will be Responsible
17 Employees will participate in the Training Program before assuming
18 responsibilities for compliance with this Consent Decree or Storm Water
19 Permit.
20

21 27. Visual Observation Training: Bristol shall provide training on how
22 and when to properly conduct visual observations to all Responsible Employees
23 performing visual observations at the Facility. All new staff who will be
24 Responsible Employees will receive this training before assuming
25 responsibilities for implementing the SWPPP.

26 28. Non-Stormwater Discharge Training: Bristol shall advise all
27 employees responsible for managing hazardous materials and working in
28 manufacturing areas which generate dust or other pollutants with a potential for

1 release to storm water at the Facility on the Permit's prohibition of non-storm
2 water discharges, sufficient to ensure that such employee(s) can recognize and
3 promptly report any observation to the appropriate Responsible Employee for
4 action.

5 29. Knowledgeable Representatives: The Training Program shall be
6 provided by a private consultant or representative of Bristol who is familiar
7 with the requirements of this Consent Decree and the Permit.

8 30. Training Records: Bristol shall maintain training records to
9 document compliance with this Section.

10 31. Integration of Employee Training into the SWPPP: If and when
11 appropriate, Defendant shall integrate any new training requirements resulting
12 from this Consent Decree into the Facility SWPPP. Bristol shall also update
13 the SWPPP, if and when appropriate, to identify the positions responsible for
14 implementing storm water management, monitoring, sampling, and SWPPP
15 implementation.

16 **C. Storm Water Pollution Prevention Plan**

17 32. Within thirty (30) days of the Effective Date, Bristol shall amend
18 the Facility's SWPPP to incorporate those BMPs set forth in this Consent
19 Decree which in the professional judgment of Defendant's Qualified Industrial
20 Storm Water Professional should be incorporated therein, and submit the
21 updated SWPPP to Coastkeeper within fourteen (14) days thereafter.

22 33. Site Map and Description: Within thirty (30) days of its
23 completion of the structural improvements required hereunder, and the bio-
24 swale, Bristol shall ensure the SWPPP includes an updated Site Map that
25 complies with the Permit, Section X.E. The Site Map shall clearly denote: (a)
26 the topography and direction of storm water flow for each drainage area of the
27 Facility; (b) identify property boundaries; (c) known or suspected drop inlets;
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1 (d) ground type (pervious or impervious); (e) berms and the materials they are
2 composed of; (f) discharge points; (g) sampling points; (h) bioswales; (i)
3 describe and depict areas of chemical and hazardous waste storage; (j) any
4 permanent structures and features; and (k) all other physical structures or items
5 relevant under the Storm Water Permit and this Consent Decree. During the
6 term of this Consent Decree, if Bristol makes significant changes to the
7 Facility, such as moving a discharge or sampling point, modifying the
8 topography of the site so as to change a drainage area, or removing or adding
9 structural BMPs, Bristol shall update the SWPPP within forty-five (45) days
10 and submit the revised SWPPP to Coastkeeper, Regional Board, and State
11 Water Resources Control Board, consistent with the requirements of Paragraphs
12 35-36 of this Section.

13 34. Change of Industrial Processes: If, during the term of this Consent
14 Decree, Bristol changes the Facility's industrial processes or operation in a way
15 that materially increases the quantity or frequency of surface water pollutant
16 discharges, then Bristol shall notify Plaintiffs within thirty (30) days of such
17 change(s) and conduct sampling for qualifying pollutants as required by the
18 Permit. These SWPPP revisions shall occur within forty-five (45) days of the
19 changes in operation.

20 35. Change of Programs: If during the term of this Consent Decree
21 Bristol plans to make revisions to its SWPPP other than those called for
22 hereunder, including revisions to programs detailed within the SWPPP, such as
23 sampling, monitoring, and reporting, Bristol agrees to submit a description of
24 the proposed revisions to Coastkeeper twenty (20) days prior to submittal.

25 36. Visual Inspection Checklist: Bristol shall create an inspection
26 checklist to be used by Responsible Employees when conducting the visual
27 observations and monitoring required under the Permit and this Consent
28

1 Decree.

2 37. Training Program: Bristol shall include in the SWPPP the Training
3 Program requirements listed in Paragraphs 22-23.

4 38. **Coastkeeper's Review of the SWPPP**: Defendant shall submit each
5 revised SWPPP to Coastkeeper for review and comment within five (5) business days
6 of its completion. Coastkeeper shall have twenty (20) days from the receipt of any
7 amended SWPPP to propose changes. Within thirty (30) days of notification by
8 Coastkeeper of any proposed changes, Bristol shall either incorporate Coastkeeper's
9 changes, or provide Coastkeeper with a written explanation for its decision not to
10 incorporate a change.

11 39. **Disputes**: Any disputes between Plaintiff and Bristol as to the adequacy
12 of the SWPPP or any individual program revision implemented hereunder after the
13 Effective Date shall be resolved pursuant to the dispute resolution procedures in
14 Section VI below.

15 **IV. SAMPLING, MONITORING, INSPECTION & REPORTING**

16 40. **Storm Water Sampling Program**: Bristol shall collect storm water
17 samples from the Facility's discharge location during the term of the Consent Decree,
18 required by, and in accordance with the Permit. For purposes of this Consent Decree,
19 sampling requirements shall be deemed to apply during the Facility's operating hours.
20 Any failure to sample a discharge from the discharge points referenced above shall be
21 documented and submitted to Coastkeeper within ten (10) days of the date a
22 qualifying storm water event occurred which could have been sampled but was not.
23 Bristol shall analyze the samples for the constituents identified in Table 1.

24 41. **Coastkeeper's Review of Revised M&RP**: Bristol agrees to submit the
25 Monitoring and Reporting Program ("M&RP") to Coastkeeper for review and
26 comment as soon as it is completed but in any event, no later than thirty (30) days
27 from the Effective Date of this Consent Decree. Coastkeeper have fifteen (15) days to
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1 provide comments, if any. If Bristol elects not to modify the M&RP as suggested by
2 Coastkeeper, it shall provide a prompt written explanation of its decision to
3 Coastkeeper. Any disputes as to the adequacy of any revised M&RP as submitted by
4 Bristol shall be resolved pursuant to the dispute resolution provisions in Section VI
5 below.

6 **42. Additional Revisions to M&RP:** Bristol shall revise the M&RP if there
7 are any material change in a Facility discharge point(s), if Bristol discovers a change
8 in the Facility's storm water discharge point(s), or as applicable to incorporate a
9 material sampling or monitoring change in any Response Plan(s). Bristol shall submit
10 any revised M&RP to Coastkeeper for review and comment within fifteen (15) days
11 of completion. Coastkeeper shall provide comments, if any, to Bristol within twenty
12 (20) days of receipt of any revised M&RP. Within thirty (30) days of its receipt of
13 Coastkeeper's suggested changes, if any, Bristol shall either incorporate
14 Coastkeeper's such changes, or provide Coastkeeper a written explanation for its
15 decision not to include change.

16 **43. Disputes:** Any disputes as to the adequacy of the M&RP shall be
17 resolved pursuant to the dispute resolution provisions of this Consent Decree, as set
18 out in Section VI below.

19 **44. Sampling:** The following storm water monitoring procedures shall be
20 implemented at the Facility:

21 **44.1. Frequency:** During the life of this Consent Decree, Bristol shall collect
22 samples of storm water discharges not less than the four (4) times per
23 year specified in the Permit during each reporting year from the Facility
24 during the operating hours as defined in the SWPPP as a result of a
25 Qualified Storm Event ("QSE") as defined in the Storm Water Permit.

26 **44.2. Discharge Locations:** During the life of this Consent Decree, Bristol
27 shall collect samples from all discharge locations specified in the Permit,
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1 as it may be amended incident to completion of the bioswale.

2 44.3. Parameters: All samples collected pursuant to this section shall be
3 analyzed for the parameters listed in Table 1.

4 44.4. Change of Industrial Activities: Should industrial processes materially
5 change at the Facility, Bristol shall notify Coastkeeper pursuant to the
6 Notice Provision of Paragraph 55 below. Bristol shall conduct sampling
7 for any additional toxic priority pollutants listed in 40 C.F.R. § 131.38
8 likely to be present in the Facility's storm water discharges in significant
9 quantities as a result of the changed industrial processes.

10 44.5. Lab: Except for pH samples, Bristol shall have all storm water samples
11 required to be collected pursuant to this Consent Decree delivered to a
12 California state certified environmental laboratory for analysis within the
13 time needed for analysis within laboratory method allowable hold times,
14 pursuant to 40 C.F.R. Part 136. However, pH will be analyzed onsite
15 using a calibrated portable instrument for pH in accordance with
16 accompanying manufacturer's instructions.

17 44.6. Detection Limit: The laboratory shall thereafter conduct analysis as
18 dictated by method detection limits and test methods described in the
19 Storm Water Permit.

20 44.7. Lab Reports: Bristol shall request the sample-analysis results and
21 associated chain of custody forms be reported to them within fourteen
22 (14) days of laboratory receipt of the sample.

23 44.8. Reports to Coastkeeper: During the life of this Consent Decree, Bristol
24 shall provide the full sample reports received under Section 42.7 above to
25 Coastkeeper within fourteen (14) days of receipt of the laboratory report
26 from each sampling event.

27 44.9. Sampling Reduction: Defendant may discontinue analyzing storm water
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1 samples collected pursuant to this Consent Decree at any discharge
2 location(s) for a constituent listed in Table 1 that is not otherwise
3 required by the Storm Water Permit, if the sample result for the Table 1
4 constituent is not detected for four (4) consecutive sample results, and
5 Defendant has collected and analyzed the sample pursuant to this
6 Consent Decree.

7 44.10. **Numeric Limits:** If any sample reports received under Section 44.7
8 document exceedances of any of the limits ("Numeric Limits") in Table
9 1, during a single reporting year, then upon the fourth such exceedance
10 Bristol shall implement the Response Plan requirements of this Consent
11 Decree.
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15 **TABLE APPEARS NEXT**
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Table 1. Numeric Limitations for Storm Water Discharges

Contaminant	Test Method	Numeric Limit ¹
Aluminum	EPA 200.8	0.75
Cadmium ²	EPA 200.8	0.0053
Copper ²	EPA 200.8	0.013
Cyanide	SM 4500-CN	NA
Iron	EPA 200.7	1.0
Lead ²	EPA 200.8	0.112
Nickel	EPA 200.8	0.61
Nitrate plus nitrite nitrogen	SM 4500-NO3-E	0.68
Oil and grease	EPA 1664A	15
pH	Onsite screening with calibrated instrument	6.5-8.5 s.u.
Silver ²	EPA 200.8	0.183
Total suspended solids	SM 2540-D	100
Zinc	EPA 200.8	0.26

¹ All but pH expressed as mg/L. Some Numeric Limits are hardness dependent. The hardness dependent limits are in **bold**, and have been adjusted using methods provided in Appendix J of the 2015 EPA Multi-Sector General Permit and/or the California Toxics Rule as applicable based on hardness data for the Coyote Creek watershed, a tributary to the San Gabriel River, and reported in a technical memo.: Summary of Existing Conditions Data Coyote Creek Watershed Management Plan, Dec. 5, 2005.

² Pursuant to 40 CFR 131.38(c)(4)(iii), are expressed as dissolved and as such the limits are based on soluble or dissolved metal concentrations.

1 **45. Response Plan Regarding Exceedance of Numeric Limitations.**

2 Bristol shall develop and submit to Coastkeeper a Response Plan describing the steps
3 planned to reduce and/or eliminating the exceedance documented in the sample
4 reports under Section 44.7. Bristol's obligations under the Consent Decree do not
5 displace Bristol's obligations to sample and comply with the Permit's ERA process.
6 Such Response Plan shall be provided to Coastkeeper within 60-days of the date the
7 sample results documenting the second consecutive exceedance are received by
8 Bristol.

9 45.1. Requirements: Each Response Plan submitted shall include at a
10 minimum: (1) the identification of the pollutant(s) discharged in excess
11 of the Numeric Limit(s); (2) an assessment of the source of each
12 pollutant exceedance; (3) the identification of additional BMPs, which
13 may include, by way of example, treating storm water prior to discharge
14 from the Facility, that will be implemented to achieve compliance with
15 the Numeric Limit(s); and (4) time schedules for implementation of the
16 proposed BMPs.

17 45.2. Time Schedule: The time schedule(s) for implementation shall ensure
18 that all BMPs are implemented as soon as reasonably practical, but in no
19 case later than October 1 of that year. If a Response Plan is approved in
20 writing by Coastkeeper, as set forth in Paragraph 45.3 below, Bristol
21 shall also revise its M&RP and SWPPP, as applicable, within thirty (30)
22 days.

23 45.3. Coastkeeper's Review of Response Plan: Coastkeeper shall have thirty
24 (30) days from receipt of a Response Plan to propose revisions.
25 However, if Coastkeeper notifies Bristol within thirty (30) days of receipt
26 of the Response Plan that it is unable to provide comments within thirty
27 (30) days, Coastkeeper shall have an additional fifteen (15) days to
28

comment upon and/or propose revisions to the Response Plan. Within thirty (30) days of receiving Coastkeeper's comments and/or proposed revisions, Bristol shall consider each of Coastkeeper's recommended revisions to accept or reject them. If Bristol rejects any revision, it shall provide an explanation therefore. If Coastkeeper disagrees, it shall timely request to meet and confer, in accordance with this Consent Decree.

45.4. Structural BMPs: If structural BMPs are proposed, and agreed to between the Parties, which require agency approval, then Bristol shall contact Coastkeeper to request an extension of the deadline, if necessary, to implement the structural BMPs. Coastkeeper's consent to Bristol's requested extension shall not be unreasonably conditioned, delayed or withheld. Anytime a Response Plan is completed after Coastkeeper's review, as set forth above, Bristol shall also revise its M&RP and SWPPP as applicable within thirty (30) days.

45.5. [RESERVED]

45.6. Obligation of Consent Decree: Bristol shall implement the Response Plan(s) adopted pursuant to this Consent Decree as an obligation of this Consent Decree.

45.7. Diligently File: Bristol shall diligently file and pursue all required local agency applications for permits and/or approvals for the BMPs included in any Response Plan. Bristol shall further diligently pursue the procurement of contractors, labor, and materials to complete all BMPs by the agreed-upon deadlines.

45.8. Implementation into SWPPP: Within thirty (30) days after BMPs set forth in a Response Plan pursuant to this Consent Decree are implemented, Bristol shall amend the Facility SWPPP to include all

1 BMP revisions or additions not otherwise already implemented and
2 included in the SWPPP and shall provide Coastkeeper with a copy of
3 such revised SWPPP.

4 46. The Response Plan shall include data, drawings, and other design
5 rationale, as appropriate to the BMP, demonstrating how the proposal shall contribute
6 to achieving compliance with Permit and Consent Decree requirements.

7 47. Coastkeeper shall have thirty (30) days to comment on the Response
8 Plan. Within thirty (30) days of receipt of Coastkeeper's Response Plan comments,
9 Bristol shall revise its SWPPP and/or M&RP to reflect the changes and /or additional
10 BMPs as set forth in the Response Plan or shall justify in writing why any comment is
11 not incorporated.

12 48. If the Settling parties are unable to agree to the adequacy of any
13 Response Plan, either Settling Party may invoke dispute resolution procedures
14 pursuant to Section VI below.

15 49. Any concurrence or failure to object by Coastkeeper with regard to the
16 reasonableness of any additional measures required by this Consent Decree or
17 implemented by Bristol shall not be deemed to be an admission of the adequacy of
18 such measures should they fail to bring the Facility' storm water discharges into
19 compliance with applicable water quality criteria or the BAT/BCT requirements set
20 forth in the Permit.

21
22 50. **Duty to Evaluate.** Between October 1 and May 31 of each reporting
23 year, Bristol has an ongoing obligation to evaluate the BMPs implemented at the
24 Facility and included in this Consent Decree and any current or previous Response
25 Plan, and, if Bristol has exceeded the Numeric Limits, make attempts to reduce the
26 concentrations to Numeric Limits or otherwise meet BAT or BCT, as appropriate,
27 until May 31 of that reporting year. Bristol shall use the results from subsequent
28 storm water samples as they become available to assist with their ongoing evaluation

1 of the effectiveness of BMPs.

2 **51. Site Inspections:** During the life of this Consent Decree, Bristol shall
3 permit representatives of Coastkeeper to perform one annual physical inspections of
4 the Facility, limited to exterior areas of industrial activity associated with storm water
5 discharges under the Permit ("Site Inspection"). Bristol shall permit an additional site
6 inspection to verify the implementation of new or improved BMPs Bristol has yet to
7 complete prior to the annual site inspection or to verify improved BMPs in response to
8 material deficiencies observed during the annual physical inspection. Such
9 inspections shall be performed during normal business hours. Coastkeeper shall
10 provide Bristol with four (4) business days' notice in advance of such Site
11 Inspections; provided, however, that if Coastkeeper intends to perform inspections
12 during qualifying storm water events, Coastkeeper shall provide Bristol not less than
13 24-hour's notice based on National Weather Service forecasts predicting significant
14 precipitation events in the Brea area. Coastkeeper shall comply with all safety
15 instructions and confidentiality requirements provided to Coastkeeper by Bristol's
16 staff during all Site Inspections. During Site Inspections, Coastkeeper, may inspect
17 the Facility's exterior storm water management facilities and/or sample any
18 discharges, as well as associated Maintenance Logs, Annual Records, and employee
19 training records required hereunder. Coastkeeper may also take photos and/or videos
20 relevant to the Facility's compliance with the Permit or Consent Decree.
21

22 **52. Document Production:** During the life of this Consent Decree, Bristol
23 shall provide data and reports submitted to any governmental authority related to its
24 compliance with the Permit or this Consent Decree contemporaneously with their
25 provision to such governmental authority, including uploading information into
26 SMARTS; if completion of the bioswale occurs after the Effective Date of this
27 Consent Decree, Bristol shall provide notice thereof within five (5) days of
28 completion. In addition, if Coastkeeper requests from Bristol any documents related

1 to storm water management at the Facility or to this Consent Decree, Bristol shall
2 send Coastkeeper said documents within seven (7) days.

3 **V. ENVIRONMENTAL MITIGATION PROJECT, LITIGATION**
4 **FEES AND COSTS, STIPULATED PENALTIES, COMPLIANCE**
5 **MONITORING AND INTEREST**

6 **53. Environmental Mitigation Project.** Bristol agrees to make a payment
7 of Fifteen Thousand Dollars (\$15,000) to the Los Cerritos Wetlands Land Trust to
8 fund environmental project activities that will benefit tidal wetlands within the San
9 Gabriel River Estuary and the associated watershed. Payment shall be made by
10 check, sent by certified mail, or overnight delivery, unless delivered by wire transfer,
11 to: Los Cerritos Wetlands Land Trust, P.O. Box 30165, Long Beach, CA 90853. The
12 payment shall be made within ten (10) days of the Effective Date. Bristol shall
13 provide Coastkeeper with a copy of such payment at the time it is made.

14 **54. Reimbursement of Fees and Costs.** Bristol shall reimburse
15 Coastkeeper in the amount of Seventy Thousand dollars (\$70,000) to cover
16 Coastkeeper's investigation and expert costs and fees, its attorneys' fees and costs,
17 and all other costs incurred as a result of investigating the activities at the Facility
18 related to this Consent Decree, including negotiating a resolution of this action in the
19 public interest. The payment shall be made within ten (10) days of the Effective Date
20 of the Consent Decree. The payment shall be made via wire transfer or check, made
21 payable to: "Orange County Coastkeeper" and delivered by overnight delivery, unless
22 payment via wire transfer, to: Orange County Coastkeeper, 3151 Airway Avenue,
23 Suite F-110, Costa Mesa, CA 92626.

24 **55. Compliance Monitoring Funds.** To defray Coastkeeper's future fees,
25 costs and/or expenses incurred in connection with Coastkeeper's activities under this
26 Consent Decree, including efforts to monitor Bristol's compliance with this Consent
27 Decree, and to effectively meet and confer and evaluate storm water monitoring
28

1 results for the Facility, Bristol shall pay Coastkeeper the amount of twelve thousand
2 dollars (\$12,000) for its costs to be incurred in overseeing the implementation of this
3 Consent Decree. Bristol shall make payment to Coastkeeper within ten (10) days of
4 the Effective Date. Payment by Bristol to Coastkeeper shall be made in the form of a
5 wire transfer or check payable to: Orange County Coastkeeper, 3151 Airway Avenue,
6 Suite F-110, Costa Mesa, CA 92626.

7 **56. Stipulated Penalties:** Bristol shall make stipulated payments for each
8 failure to comply with the terms of Paragraphs 53, 54 or 55 of this Consent Decree, as
9 described in this paragraph. Payments for missed deadlines shall be made to “Los
10 Cerritos Wetlands Land Trust” and delivered via certified mail, overnight delivery, or
11 wire transfer to: Los Cerritos Wetlands Land Trust, P.O. Box 30165, Long Beach, CA
12 90853. Bristol agrees to make the stipulated payment within thirty (30) days of a
13 missed deadline. Bristol shall provide Coastkeeper with a copy of each such payment
14 at the time it is made.

15 **VI. DISPUTE RESOLUTION**

16 **57.** The Court shall retain jurisdiction over this matter for the life of the
17 Consent Decree for the purposes of enforcing its terms and conditions, and
18 adjudicating all disputes among the Settling Parties that may arise under the
19 provisions of the Consent Decree. The Court shall have the authority to enforce this
20 Consent Decree with all available legal and equitable remedies, including contempt.

21 **58.** If a dispute under this Consent Decree arises or if a Settling Party
22 believes that a breach of this Consent Decree has occurred, they shall follow the
23 following procedure:

24 **58.1. Meet and Confer:** A Party to this Consent Decree shall invoke the
25 dispute resolution procedures of this Section by notifying all other
26 Settling Parties in writing of the disputed matter(s). The Settling Parties
27 shall schedule a meet and confer in good faith (either telephonically or in
28

1 person) in an attempt to resolve the dispute informally over a period of
2 ten (10) days from the date of the notice. The Settling Parties may elect
3 to extend this time in an effort to resolve the dispute without court
4 intervention.

5 58.2. If the Settling Parties cannot resolve a dispute by the end of meet and
6 confer informal negotiations, the party initiating the dispute resolution
7 provision may invoke formal dispute resolution by filing a motion before
8 the United States District Court for the Central District of California.
9 The Settling Parties agree to request an expedited hearing schedule on the
10 motion.

11 58.3. Enforcement Fees and Costs: The Parties shall be entitled to seek fees
12 and costs incurred in any such action (which shall not include fees, costs
13 or expenses incurred or obligated during the meet and confer period)
14 pursuant to the provisions set forth in Section 505 of the Clean Water
15 Act, 33 U.S.C. §§ 1365 and 1319, and applicable case law interpreting
16 such provisions.

17 **VII. WAIVER, RELEASES AND COVENANTS NOT TO SUE**

18 59. **Coastkeeper's Release**: Coastkeeper, on its own behalf and on behalf of
19 its officers, directors, employees, parents, subsidiaries, affiliates, outside counsel and
20 each of their successors and assigns releases Bristol, its officers, directors, employees,
21 members, parents, subsidiaries, affiliates, successors or assigns, agents, attorneys and
22 other representatives, from, and waives all claims raised in the 60-Day Notice and/or
23 the Complaint, including all claims for fees (including fees of attorneys, experts, and
24 others), costs, expenses, or any other sum incurred or claimed or which could have
25 been claimed for matters included in the 60-Day Notice and/or the Complaint at the
26 Facility.
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1 **60. Bristol's Waiver and Release of Coastkeeper:** Bristol, on its own
2 behalf and on behalf of their officers, directors, employees, members, parents,
3 subsidiaries, affiliates, or their successors or assigns release Coastkeeper and its
4 officers, directors, employees, members, parents, subsidiaries, and affiliates, and each
5 of their successors and assigns from, and waive all claims which arise from or pertain
6 to, the 60-Day Notice and/or the Complaint, including all claims for fees (including
7 fees of attorneys, experts, and others), costs, expenses or any other sum incurred or
8 claimed or which could have been claimed for matters included in the 60-Day Notice
9 and/or the Complaint at the Facility.

10 **61.** The Parties acknowledge that they are familiar with section 1542 of the
11 California Civil Code, which provides:

12 A general release does not extend to claims which the creditor does not
13 know or suspect to exist in his or her favor at the time of executing the
14 release, which if known by him or her must have materially affected his or
15 her settlement with the debtor.

16 The Parties hereby waive and relinquish any rights or benefits they may have under
17 California Civil Code section 1542 with respect to any other claims against each other
18 arising from, or related to, the allegations and claims as set forth in the 60-Day Notice
19 Letter and Complaint for storm water pollution discharges at the Facility up to and
20 including the Termination Date of this Consent Decree.

21 **VIII. MISCELLANEOUS PROVISIONS**

22 **62. No Admission of Liability.** The Parties enter into this Consent Decree
23 for the purpose of avoiding prolonged and costly litigation. Nothing in this Consent
24 Decree shall be construed as, and Bristol expressly does not intend to imply, any
25 admission as to any fact, finding, issue of law, or violation of law, nor shall
26 compliance with this Consent Decree constitute or be construed as an admission by
27 Bristol of any fact, finding, conclusion, issue of law, or violation of law. However,
28 this Paragraph shall not diminish or otherwise affect the obligation, responsibilities,

1 and duties of the Parties under this Consent Decree.

2 **63. Execution in Counterparts.** The Consent Decree may be executed in
3 one or more counterparts which, taken together, shall be deemed to constitute one
4 and the same document.

5 **64. Facsimile Signatures.** The Parties' signatures to this Consent Decree
6 transmitted by facsimile or electronic mail transmission shall be deemed binding.

7
8 **65. Construction.** The language in all parts of this Consent Decree, unless
9 otherwise stated, shall be construed according to its plain and ordinary meaning. The
10 captions and paragraph headings used in this Consent Decree are for reference only
11 and shall not affect the construction of this Consent Decree.

12 **66. Force Majeure:** Bristol will notify Coastkeeper if timely implementation
13 of Bristol's respective duties under this Consent Decree becomes impossible due to
14 circumstances beyond the control of Bristol or its agents, and which could not have
15 been reasonably foreseen and prevented by the respective Bristol's exercise of due
16 diligence. Any delays due to the Bristol's respective failure to make timely and *bona*
17 *fide* applications and to exercise diligent efforts to comply with the terms in this
18 Consent Decree will not, in any event, be considered to be circumstances beyond
19 Bristol's control.

20
21 **66.1.** If Bristol claims impossibility, it will notify Coastkeeper in writing
22 within twenty (20) days of the date that Bristol discovers the event or
23 circumstance that caused or would cause non-performance with the terms of
24 this Consent Decree, or the date Bristol should have known of the event or
25 circumstance by the exercise of due diligence. The notice must describe the
26 reason for the non-performance and specifically refer to this section of this
27 Consent Decree. The notice must describe the anticipated length of time the
28 non-performance may persist, the cause or causes of the non-performance, the

1 measures taken or to be taken by Bristol to prevent or minimize the non-
2 performance, the schedule by which the measures will be implemented, and the
3 anticipated date of compliance. Bristol will adopt all reasonable measures to
4 avoid and minimize such non-performance.

5 66.2. The Settling Parties will meet and confer in good faith concerning the
6 non-performance and, if the Settling Parties concur that performance was or is
7 impossible, despite the timely good faith efforts of Bristol, due to
8 circumstances beyond the control of Bristol that could not have been
9 reasonably foreseen and prevented by the exercise of due diligence by Bristol,
10 new performance deadlines will be established.

11 66.3. If Coastkeeper disagrees with Bristol's notice, or in the event that the
12 Settling Parties cannot timely agree on the terms of new performance deadlines
13 or requirements, either Settling Party may invoke the dispute resolution
14 process described in Paragraph 27 of this Consent Decree. In such proceeding,
15 Bristol will bear the burden of proving that any delay in performance of any
16 requirement of this Consent Decree was caused or will be caused by force
17 majeure and the extent of any delay attributable to such circumstances.

18 67. **Authority to Sign.** The undersigned are authorized to execute this
19 Consent Decree on behalf of their respective parties and have read, understood and
20 agreed to all of the terms and conditions of this Consent Decree.

21 68. **Integrated Consent Decree.** All Consent Decrees, covenants,
22 representations and warranties, express or implied, oral or written, of the Parties
23 concerning the subject matter of this Consent Decree are contained herein.

24 69. **Severability.** In the event that any of the provisions of this Consent
25 Decree are held by a court to be unenforceable, the validity of the enforceable
26 provisions shall not be adversely affected.
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1 70. **Choice of Law.** This Consent Decree shall be governed by the laws of
2 the United States, and where applicable, the laws of the State of California.

3 71. **Full Settlement.** This Consent Decree constitutes a full and final
4 settlement of this matter. It is expressly understood and agreed that the Consent
5 Decree has been freely and voluntarily entered into by the Parties with and upon
6 advice of counsel.

7 72. **Negotiated Consent Decree.** The Parties have negotiated this Consent
8 Decree, and agree that it shall not be construed against the party preparing it, but
9 shall be construed as if the Parties jointly prepared this Consent Decree, and any
10 uncertainty and ambiguity shall not be interpreted against any one party.

11 73. **Modification of the Consent Decree.** This Consent Decree, and any
12 provisions herein, may not be changed, waived, or discharged unless by a written
13 instrument signed by the Parties.

14 74. **Assignment.** Subject only to the express restrictions contained in this
15 Consent Decree, all of the rights, duties and obligations contained in this Consent
16 Decree shall inure to the benefit of and be binding upon the Parties, and their
17 successors and assigns.

18 75. **Mailing of Documents to Coastkeeper/Notices/Correspondence.** Any
19 notices or documents required or provided for by this Consent Decree or related
20 thereto that are to be provided to Coastkeeper pursuant to this Consent Decree shall
21 be, to the extent feasible, sent via electronic mail transmission to the e-mail addresses
22 listed below or, if electronic mail transmission is not feasible, via certified U.S. Mail
23 with return receipt, or by hand delivery to the following address:

24
25 Orange County Coastkeeper
26 Attention: Colin Kelly
27 3151 Airway Avenue, Suite F-110
28 Costa Mesa, California 92626
 E-mail: colin@coastkeeper.org

1 With copies sent to:

2
3 Douglas Chermak
4 Lozeau Drury LLP
5 410 12th Street, Suite 250
6 Oakland, CA 94607
7 E-mail: doug@lozeaudrury.com

8 Unless requested otherwise by Bristol, any notices or documents required or
9 provided for by this Consent Decree or related thereto that are to be provided to
10 Bristol pursuant to this Consent Decree shall, to the extent feasible, be provided by
11 electronic mail transmission to the e-mail addresses listed below, or, if electronic mail
12 transmission is not feasible, by certified U.S. Mail with return receipt, or by hand
13 delivery to the addresses below:

14 Bristol:

15 Timothy Scott Wood – President
16 630 E. Lambert Road
17 Brea, CA 92821

18 With copies sent to:

19 Edwin Varela – Director of EHS
20 630 E. Lambert Road
21 Brea, CA 92821
22 E-mail: EVarela@bristolind.com

23 Timothy J. Bergere
24 Montgomery McCracken Walker & Rhoads, LLP
25 123 South Broad Street
26 Avenue of the Arts
27 Philadelphia, PA 19109
28 E-mail: tbergere@mmwr.com

Notifications of communications shall be deemed submitted on the date that

1 they are emailed, or postmarked and sent by first-class mail or deposited with an
2 overnight mail/delivery service. Any changes of address or addressees shall be
3 communicated in the manner described above for giving notices.

4 76. If for any reason the DOJ or the District Court should decline to approve
5 this Consent Decree in the form presented, the Parties shall use their best efforts to
6 work together to modify the Consent Decree within thirty (30) days so that it is
7 acceptable to the DOJ or the District Court. If the Parties are unable to modify this
8 Consent Decree in a mutually acceptable manner that is also acceptable to the District
9 Court, this Consent Decree shall immediately be null and void as well as
10 inadmissible as a settlement communication under Federal Rule of Evidence 408 and
11 California Evidence Code section 1152.

12 77. The settling Parties hereto enter into this Consent Decree, Order and
13 Final Judgment and submit it to the Court for its approval and entry as a final
14 judgment.
15

16
17 ORANGE COUNTY COASTKEEPER

18 Date: November 16, 2017

19
20 

21 _____
22 Garry Brown
23 Executive Director
24 Orange County Coastkeeper

25
26 BRISTOL INDUSTRIES, LLC

27 Date: _____, 2017

28 _____
NAME: Timothy Scott Wood
TITLE: President

they are emailed, or postmarked and sent by first-class mail or deposited with an overnight mail/delivery service. Any changes of address or addressees shall be communicated in the manner described above for giving notices.

76. If for any reason the DOJ or the District Court should decline to approve this Consent Decree in the form presented, the Parties shall use their best efforts to work together to modify the Consent Decree within thirty (30) days so that it is acceptable to the DOJ or the District Court. If the Parties are unable to modify this Consent Decree in a mutually acceptable manner that is also acceptable to the District Court, this Consent Decree shall immediately be null and void as well as inadmissible as a settlement communication under Federal Rule of Evidence 408 and California Evidence Code section 1152.

77. The settling Parties hereto enter into this Consent Decree, Order and Final Judgment and submit it to the Court for its approval and entry as a final judgment.

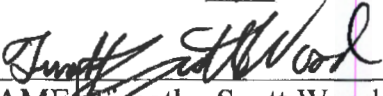
ORANGE COUNTY COASTKEEPER

Date: _____, 2017

Garry Brown
Executive Director
Orange County Coastkeeper

BRISTOL INDUSTRIES, LLC

Date: November 16, 2017


NAME: Timothy Scott Wood
TITLE: President

Approved as to form:

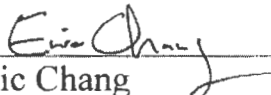
LOZEAU DRURY LLP

Date: _____, 2017

Douglas Chermak
Attorneys for Orange County Coastkeeper

MONTGOMERY MCCracken WALKER & RHoads, LLP

Date: 11/16, 2017



Eric Chang
Attorneys for Bristol Industries, LLC

IT IS SO ORDERED.

Date: _____

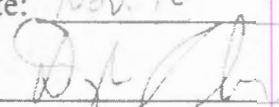
Honorable James V. Selna
United States District Judge
Central District of California

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Approved as to form:

LOZEAU DRURY LLP

Date: Nov. 16, 2017



Douglas Chermak
Attorneys for Orange County Coastkeeper

MONTGOMERY MCCracken WALKER & RHOADS, LLP

Date: _____, 2017

Eric Chang
Attorneys for Bristol Industries, LLC

IT IS SO ORDERED.

Date: _____

Honorable James V. Selna
United States District Judge
Central District of California

EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 9, 2017

William Carrigan, President
Peter Szamosi, Plant Manager
Ken Harter, Director of Facilities and Maintenance
Richard L French, Environmental Team Leader
Bristol Industries, LLC
630 E Lambert Rd
Brea, CA 92821

VIA FIRST CLASS MAIL

CSC – Lawyers Incorporating Service
Agent for Service of Process for Bristol Industries, LLC
(Entity Number 201408710046)
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833

**Re: Notice of Violations and Intent to File Suit under the Federal Water
Pollution Control Act**

Dear Messrs. Carrigan, Szamosi, Harter, and French:

I am writing on behalf of Orange County Coastkeeper (“OCC”) in regard to violations of the Clean Water Act (the “Act”) that OCC believes are occurring at Bristol Industries, LLC’s industrial facility located at 630 E. Lambert Road in Brea, California (“Facility”). This letter is being sent to Bristol Industries, LLC, William Carrigan, Peter Szamosi, Ken Harter, and Richard French as the responsible owners or operators of the Facility (all recipients are hereinafter collectively referred to as “Bristol”).

This letter addresses Bristol’s unlawful discharge of pollutants from the Facility into channels that flow into Coyote Creek, a major tributary of the San Gabriel River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources Control Board (“State Board”)

Notice of Violations and Intent to File Suit

Messrs. Carrigan, Szamosi, Harter, and French
Bristol Industries, LLC
January 9, 2017
Page 2 of 19

Order No. 97-03-DWQ ("1997 Permit") as renewed by Order No. 2015-0057-DWQ ("2015 Permit"). The 1997 Permit was in effect between 1997 and June 30, 2015, and the 2015 Permit went into effect on July 1, 2015. As explained below, the 2015 Permit maintains or makes more stringent the same requirements as the 1997 Permit. As appropriate, OCC refers to the 1997 and 2015 Permits in this letter collectively as the "General Permit." The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, OCC hereby places Bristol on formal notice that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, OCC intends to file suit in federal court against Bristol under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

OCC is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 3151 Airway Ave., Suite F-110, Costa Mesa, California 92626. Founded in 1999, OCC has approximately two thousand members who live and/or recreate in and around the Orange County area. OCC is dedicated to protecting and promoting water resources that are swimmable, drinkable, fishable, and sustainable. To further this mission, OCC actively seeks federal and state implementation of the Clean Water Act. Where necessary, OCC directly initiates enforcement actions on behalf of itself and its members.

Members of OCC reside in Orange County, and near Coyote Creek, the San Gabriel River, and Pacific Ocean (hereinafter "Receiving Waters"). As explained in detail below, the Facility continuously discharges pollutants into the Receiving Waters, in violation of the Clean Water Act and the General Permit. OCC members use the Receiving Waters to swim, boat, kayak, bird watch, view wildlife, hike, bike, walk, and run. Additionally, OCC members use the waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The unlawful discharge of pollutants from the Facility into the Receiving Waters impairs OCC's members' use and enjoyment of these waters. Thus, the interests of OCC's members have been, are being, and will continue to be adversely affected by the Facility's failure to comply with the Clean Water Act and the General Permit.

The Waste Discharger Identification Number ("WDID") for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is 8 301002167. In its Notice of Intent to comply with the General Permit

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(“NOI”), Bristol certifies that the Facility is classified under SIC codes 3452 and 3471. The name of the Facility listed on the NOI is “Bristol Industries.” The NOI indicates that the Facility is partially paved and covers an area of 18 acres.¹ The Facility collects through a system of storm drains and surface flow and discharges storm water through at least two outfalls. On information and belief, OCC alleges the outfalls contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur. Storm water discharged from the Facility flows into channels that flow into either the Brea Creek Channel or Fullerton Creek, which both flow into Coyote Creek, which flows into Reach 1 of the San Gabriel River, and ultimately flows to the Pacific Ocean via the San Gabriel River Estuary and Alamitos Bay.

The Regional Board has identified beneficial uses of Coyote Creek and its tributaries and established water quality standards for these waters in the “Water Quality Control Plan for the Santa Ana River Basin (Region 8),” generally referred to as the Basin Plan. *See* http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml. The beneficial uses of these waters include municipal and domestic supply, water contact recreation, non-contact water recreation, wildlife habitat, and warm freshwater habitat. The non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 3-3. Contact recreation use includes fishing and wading. *Id.*

The Basin Plan includes a narrative toxicity standard which states that “[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health.” *Id.* at 4-20. The Basin Plan includes a narrative oil and grease standard which states that “[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-14. The Basin Plan includes a narrative suspended and settleable solids standard which states that “Inland surface waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses...” *Id.* at 4-16. The Basin Plan provides that “[t]he pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5...” *Id.* at 4-18. The Basin Plan contains a narrative floatables standard which states that “[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-10. The Basin Plan contains a narrative color standard which states that “[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses.” *Id.* at 4-10.

OCC also notes that the Los Angeles Regional Water Quality Control Board has identified beneficial uses of the San Gabriel River, and the San Gabriel River Estuary and

¹ However, the Facility’s Storm Water Pollution Prevention Plan lists the size of the Facility as 15 acres.

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Alamitos Bay and established water quality standards for these waters in the “Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties.” *See* http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/. This Los Angeles Basin Plan would be applicable to Coyote Creek once it flows past the hydrologic boundary between Region 8, the Santa Ana Region, and Region 4, the Los Angeles Region.

The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”), for copper of 0.013 mg/L (CMC), for lead of 0.065 mg/L (CMC), for cadmium of 0.0043 mg/L (CMC), for silver of 0.0034 mg/L (CMC), and for nickel of 0.47 mg/L (CMC). 65 Fed. Reg. 31712 (May 18, 2000) (California Toxics Rule or “CTR”).²

The EPA 303(d) List of Water Quality Limited Segments lists Coyote Creek as impaired for ammonia, dissolved copper, lead, toxicity, and pH, among other pollutants. *See* http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml. Reach 1 of the San Gabriel River, where Coyote Creek flows into the San Gabriel River, is listed as impaired for coliform bacteria and pH. The San Gabriel River Estuary is impaired for copper and nickel, among other pollutants.

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”).³ The following benchmarks have been established for pollutants discharged by Bristol: pH – 6.0 - 9.0 standard units (“s.u.”); total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; aluminum – 0.75 mg/L; cadmium – 0.0053 mg/L; nitrate + nitrite as nitrogen (“N+N”) – 0.68 mg/L; lead – 0.262 mg/L; zinc – 0.26 mg/L; iron – 1.0 mg/L; copper – 0.0332 mg/L; silver – 0.0183 mg/L; and nickel – 1.02 mg/L.

These benchmarks are reflected in the 2015 Permit in the form of Numeric Action Levels (“NALs”). The 2015 Permit incorporates annual NALs, which reflect the 2008 EPA Multi-Sector General Permit benchmark values, and instantaneous maximum NALs, which are derived from a Water Board dataset. The following annual NALs have been established under the 2015 Permit: pH – 6.0 - 9.0 s.u.; TSS – 100 mg/L; O&G – 15 mg/L; aluminum – 0.75 mg/L; cadmium – 0.0053 mg/L; N+N – 0.68 mg/L; lead – 0.262 mg/L; zinc – 0.26 mg/L; iron – 1.0 mg/L; copper – 0.0332 mg/L; silver – 0.0183 mg/L; and nickel – 1.02 mg/L. The 2015 Permit also establishes the following instantaneous maximum NALs: pH – 6.0-9.0 s.u.; TSS – 400 mg/L; and O&G – 25 mg/L.

² The values for these metals are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

³ The Benchmark Values can be found at http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf.

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II. Alleged Violations of the General Permit.

A. Discharges in Violation of the Permit

Bristol has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A). BAT and BCT include both nonstructural and structural measures. 1997 Permit, Section A(8); 2015 Permit, Section X(H). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit also prohibit storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) of the 2015 Permit. As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Bristol has discharged and continues to discharge storm water with unacceptable levels of TSS, aluminum, cadmium, N+N, lead, zinc, iron, copper, silver, and nickel in violation of the General Permit. Bristol's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

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The following discharges of pollutants from the Facility have contained measurements of pollutants in excess of applicable numerical and narrative water quality standards established in the Basin Plan. They have thus violated Discharge Prohibitions A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit, and Effluent Limitation V(A) of the 2015 Permit.

Sampling Date	Parameter	Observed Concentration / Conditions	Basin Plan Water Quality Objective / CTR Objective	Outfall (as identified by the Facility)
3/11/2016	Cadmium	0.03 mg/L	0.0043 mg/L (CMC)	West Side of Facility
3/11/2016	Cadmium	0.018 mg/L	0.0043 mg/L (CMC)	East Side of Facility
1/5/2016	Cadmium	0.091 mg/L	0.0043 mg/L (CMC)	West Side of Facility
1/5/2016	Cadmium	0.0057 mg/L	0.0043 mg/L (CMC)	East Side of Facility
9/15/2015	Cadmium	3.4 mg/L	0.0043 mg/L (CMC)	West Side Drain
9/15/2015	Cadmium	0.018 mg/L	0.0043 mg/L (CMC)	East Side Drain
12/12/2014	Cadmium	12 mg/L	0.0043 mg/L (CMC)	West Side Drainage
12/12/2014	Cadmium	0.013 mg/L	0.0043 mg/L (CMC)	East Side Drainage
2/27/2014	Cadmium	0.006 mg/L	0.0043 mg/L (CMC)	West Side Drainage
2/27/2014	Cadmium	2.7 mg/L	0.0043 mg/L (CMC)	East Side Drainage
1/24/2013	Cadmium	0.027 mg/L	0.0043 mg/L (CMC)	#1-Waste Treatment Area
12/12/2012	Cadmium	0.013 mg/L	0.0043 mg/L (CMC)	#1-Waste Treatment Area
12/12/2012	Cadmium	0.039 mg/L	0.0043 mg/L (CMC)	#2-Guard Station at Gate
3/17/2012	Cadmium	0.243 mg/L	0.0043 mg/L (CMC)	#1-Waste Treatment Area
9/15/2015	Lead	0.075 mg/L	0.065 mg/L (CMC)	West Side Drain
12/12/2014	Lead	0.69 mg/L	0.065 mg/L (CMC)	West Side Drainage
2/27/2014	Lead	0.239 mg/L	0.065 mg/L (CMC)	East Side Drainage

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3/11/2016	Zinc	0.21 mg/L	0.12 mg/L (CMC)	West Side of Facility
3/11/2016	Zinc	0.61 mg/L	0.12 mg/L (CMC)	East Side of Facility
1/5/2016	Zinc	0.3 mg/L	0.12 mg/L (CMC)	West Side of Facility
9/15/2015	Zinc	6.7 mg/L	0.12 mg/L (CMC)	West Side Drain
9/15/2015	Zinc	0.55 mg/L	0.12 mg/L (CMC)	East Side Drain
12/12/2014	Zinc	23 mg/L	0.12 mg/L (CMC)	West Side Drainage
2/27/2014	Zinc	0.138 mg/L	0.12 mg/L (CMC)	West Side Drainage
2/27/2014	Zinc	5.24 mg/L	0.12 mg/L (CMC)	East Side Drainage
1/24/2013	Zinc	1.34 mg/L	0.12 mg/L (CMC)	#1-Waste Treatment Area
3/17/2012	Zinc	1.44 mg/L	0.12 mg/L (CMC)	#1-Waste Treatment Area
3/11/2016	Copper	0.05 mg/L	0.013 mg/L (CMC)	West Side of Facility
3/11/2016	Copper	0.12 mg/L	0.013 mg/L (CMC)	East Side of Facility
1/5/2016	Copper	0.16 mg/L	0.013 mg/L (CMC)	West Side of Facility
1/5/2016	Copper	0.049 mg/L	0.013 mg/L (CMC)	East Side of Facility
9/15/2015	Copper	1.8 mg/L	0.013 mg/L (CMC)	West Side Drain
9/15/2015	Copper	0.13 mg/L	0.013 mg/L (CMC)	East Side Drain
12/12/2014	Copper	12 mg/L	0.013 mg/L (CMC)	West Side Drainage
12/12/2014	Copper	0.058 mg/L	0.013 mg/L (CMC)	East Side Drainage
2/27/2014	Copper	0.085 mg/L	0.013 mg/L (CMC)	West Side Drainage
2/27/2014	Copper	1.9 mg/L	0.013 mg/L (CMC)	East Side Drainage
1/24/2013	Copper	0.039 mg/L	0.013 mg/L (CMC)	#1-Waste Treatment Area
1/24/2013	Copper	0.036 mg/L	0.013 mg/L (CMC)	#2-Guard Station at Gate
12/12/2012	Copper	0.014 mg/L	0.013 mg/L (CMC)	#1-Waste Treatment Area

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12/12/2012	Copper	0.02 mg/L	0.013 mg/L (CMC)	#2-Guard Station at Gate
3/17/2012	Copper	0.309 mg/L	0.013 mg/L (CMC)	#1-Waste Treatment Area
3/17/2012	Copper	0.015 mg/L	0.013 mg/L (CMC)	#2-Guard Station at Gate
1/5/2016	Silver	0.095 mg/L	0.0034 mg/L (CMC)	West Side of Facility
9/15/2015	Silver	0.74 mg/L	0.0034 mg/L (CMC)	West Side Drain
9/15/2015	Silver	0.028 mg/L	0.0034 mg/L (CMC)	East Side Drain
12/12/2014	Silver	0.11 mg/L	0.0034 mg/L (CMC)	West Side Drainage
2/27/2014	Silver	1.54 mg/L	0.0034 mg/L (CMC)	East Side Drainage
1/24/2013	Silver	0.01 mg/L	0.0034 mg/L (CMC)	#1-Waste Treatment Area
3/17/2012	Silver	0.195 mg/L	0.0034 mg/L (CMC)	#1-Waste Treatment Area
9/15/2015	Nickel	3 mg/L	0.47 mg/L (CMC)	West Side Drain
12/12/2014	Nickel	29 mg/L	0.47 mg/L (CMC)	West Side Drainage
2/27/2014	Nickel	21 mg/L	0.47 mg/L (CMC)	East Side Drainage
12/12/2014	Narrative	Oil sheen	Basin Plan at 4-14	West Side Drainage
2/27/2014	Narrative	Floating and suspended particulate; Oil sheen	Basin Plan at 4-16; Basin Plan at 4-10; Basin Plain at 4-14	West Side Drainage
2/27/2014	Narrative	Floating and suspended particulate; Oil sheen	Basin Plan at 4-16; Basin Plan at 4-10; Basin Plain at 4-14	East Side Drainage
5/6/2013	Narrative	Silt	Basin Plain at 4-16	Processing Area Station No. 1
5/6/2013	Narrative	Silt	Basin Plain at 4-16	East End Station No. 2
3/8/2013	Narrative	Silt	Basin Plain at 4-16	Processing Area Station No. 1
3/8/2013	Narrative	Silt	Basin Plain at 4-16	East End Station No. 2
1/24/2013	Narrative	Silt	Basin Plain at 4-16	Processing Area Station No. 1

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1/24/2013	Narrative	Silt	Basin Plain at 4-16	East End Station No. 2
12/12/2012	Narrative	Silt	Basin Plain at 4-16	Processing Area Station No. 1
12/12/2012	Narrative	Silt	Basin Plain at 4-16	East End Station No. 2

The information in the above table reflects data gathered from Bristol's self-monitoring during the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet seasons, as well as the 2015-2016 reporting year. OCC alleges that since at least January 9, 2012, and continuing through today, Bristol has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Cadmium – 0.0043 mg/L (CMC)
- Lead – 0.065 mg/L (CMC)
- Zinc – 0.12 mg/L (CMC)
- Copper – 0.013 mg/L (CMC)
- Silver – 0.0043 mg/L (CMC)
- Nickel – 0.47 mg/L (CMC)
- Sheen – Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses. Basin Plan at 4-14.
- Suspended materials – Inland surface waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses. Basin Plan at 4-16.
- Floatables – Waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses. Basin Plan at 4-10.

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.

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Sampling Date	Parameter	Observed Concentration	EPA Benchmark Value /Annual NAL	Outfall (as identified by the Facility)
3/11/2016	Total Suspended Solids	348 mg/L	100 mg/L	East Side of Facility
9/15/2015	Total Suspended Solids	645 mg/L	100 mg/L	West Side Drain
2015-2016 reporting year	Total Suspended Solids	197.35 mg/L	100 mg/L	All discharge points ⁴
12/12/2014	Total Suspended Solids	2,360 mg/L	100 mg/L	West Side Drainage
12/12/2014	Total Suspended Solids	150 mg/L	100 mg/L	East Side Drainage
2/27/2014	Total Suspended Solids	2,190 mg/L	100 mg/L	East Side Drainage
3/17/2012	Total Suspended Solids	104 mg/L	100 mg/L	#1-Waste Treatment Area
1/5/2016	Aluminum	1.5 mg/L	0.75 mg/L	West Side of Facility
1/5/2016	Aluminum	1.9 mg/L	0.75 mg/L	East Side of Facility
9/15/2015	Aluminum	16 mg/L	0.75 mg/L	West Side Drain
9/15/2015	Aluminum	7.6 mg/L	0.75 mg/L	East Side Drain
2015-2016 reporting year	Aluminum	5.5 mg/L	0.75 mg/L	All discharge points ⁵
12/12/2014	Aluminum	83 mg/L	0.75 mg/L	West Side Drainage
12/12/2014	Aluminum	6.5 mg/L	0.75 mg/L	East Side Drainage
2/27/2014	Aluminum	2.58 mg/L	0.75 mg/L	West Side Drainage
2/27/2014	Aluminum	28.7 mg/L	0.75 mg/L	East Side Drainage
12/12/2012	Aluminum	0.97 mg/L	0.75 mg/L	#2-Guard Station at Gate
3/17/2012	Aluminum	1.49 mg/L	0.75 mg/L	#1-Waste Treatment Area
1/5/2016	Cadmium	0.091 mg/L	0.0053 mg/L	West Side of Facility
1/5/2016	Cadmium	0.0057 mg/L	0.0053 mg/L	East Side of Facility
9/15/2015	Cadmium	3.4 mg/L	0.0053 mg/L	West Side Drain
2015-2016 reporting year	Cadmium	0.59 mg/L	0.0053 mg/L	All discharge points ⁶
9/15/2015	Cadmium	0.018 mg/L	0.0053 mg/L	East Side Drain

⁴ This value represents the average of all TSS measurements taken at the Facility during the 2015-2016 reporting year and is higher than 100 mg/L, the annual NAL for TSS.

⁵ This value represents the average of all aluminum measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.75 mg/L, the annual NAL for aluminum.

⁶ This value represents the average of all cadmium measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.0053 mg/L, the annual NAL for cadmium.

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12/12/2014	Cadmium	12 mg/L	0.0053 mg/L	West Side Drainage
12/12/2014	Cadmium	0.013 mg/L	0.0053 mg/L	East Side Drainage
2/27/2014	Cadmium	0.006 mg/L	0.0053 mg/L	West Side Drainage
2/27/2014	Cadmium	2.7 mg/L	0.0053 mg/L	East Side Drainage
1/24/2013	Cadmium	0.027 mg/L	0.0053 mg/L	#1-Waste Treatment Area
12/12/2012	Cadmium	0.013 mg/L	0.0053 mg/L	#1-Waste Treatment Area
12/12/2012	Cadmium	0.039 mg/L	0.0053 mg/L	#2-Guard Station at Gate
3/17/2012	Cadmium	0.243 mg/L	0.0053 mg/L	#1-Waste Treatment Area
3/11/2016	Nitrate + Nitrite as N	2.1 mg/L	0.68 mg/L	East Side of Facility
1/5/2016	Nitrate + Nitrite as N	1.08 mg/L	0.68 mg/L	East Side of Facility
9/15/2015	Nitrate + Nitrite as N	1.11 mg/L	0.68 mg/L	East Side Drain
2015-2016 reporting year	Nitrate + Nitrite as N	0.9 mg/L	0.68 mg/L	All discharge points ⁷
12/12/2014	Nitrate + Nitrite as N	0.99 mg/L	0.68 mg/L	West Side Drainage
12/12/2014	Nitrate + Nitrite as N	0.72 mg/L	0.68 mg/L	East Side Drainage
1/24/2013	Nitrate + Nitrite as N	0.74 mg/L	0.68 mg/L	#1-Waste Treatment Area
1/24/2013	Nitrate + Nitrite as N	2.12 mg/L	0.68 mg/L	#2-Guard Station at Gate
3/17/2012	Nitrate + Nitrite as N	8.16 mg/L	0.68 mg/L	#1-Waste Treatment Area
3/17/2012	Nitrate + Nitrite as N	1.79 mg/L	0.68 mg/L	#2-Guard Station at Gate
12/12/2014	Lead	0.69 mg/L	0.262 mg/L	West Side Drainage
3/11/2016	Zinc	0.21 mg/L	0.26 mg/L	West Side of Facility
3/11/2016	Zinc	0.61 mg/L	0.26 mg/L	East Side of Facility
1/5/2016	Zinc	0.3 mg/L	0.26 mg/L	West Side of Facility
9/15/2015	Zinc	6.7 mg/L	0.26 mg/L	West Side Drain
9/15/2015	Zinc	0.55 mg/L	0.26 mg/L	East Side Drain
2015-2016 reporting year	Zinc	1.41 mg/L	0.26 mg/L	All discharge points ⁸
12/12/2014	Zinc	23 mg/L	0.26 mg/L	West Side Drainage

⁷ This value represents the average of all N+N measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.68 mg/L, the annual NAL for N+N.

⁸ This value represents the average of all zinc measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.26 mg/L, the annual NAL for zinc.

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2/27/2014	Zinc	5.24 mg/L	0.26 mg/L	East Side Drainage
1/24/2013	Zinc	1.34 mg/L	0.26 mg/L	#1-Waste Treatment Area
3/17/2012	Zinc	1.44 mg/L	0.26 mg/L	#1-Waste Treatment Area
3/11/2016	Iron	17.5 mg/L	1.0 mg/L	East Side of Facility
1/5/2016	Iron	1.12 mg/L	1.0 mg/L	West Side of Facility
1/5/2016	Iron	1.62 mg/L	1.0 mg/L	East Side of Facility
9/15/2015	Iron	18.8 mg/L	1.0 mg/L	West Side Drain
9/15/2015	Iron	7.75 mg/L	1.0 mg/L	East Side Drain
2015-2016 reporting year	Iron	7.88 mg/L	1.0 mg/L	All discharge points ⁹
12/12/2014	Iron	100 mg/L	1.0 mg/L	West Side Drainage
12/12/2014	Iron	8 mg/L	1.0 mg/L	East Side Drainage
2/27/2014	Iron	3.72 mg/L	1.0 mg/L	West Side Drainage
2/27/2014	Iron	83.5 mg/L	1.0 mg/L	East Side Drainage
3/17/2012	Iron	4.4 mg/L	1.0 mg/L	#1-Waste Treatment Area
3/11/2016	Copper	0.05 mg/L	0.0332 mg/L	West Side of Facility
3/11/2016	Copper	0.12 mg/L	0.0332 mg/L	East Side of Facility
1/5/2016	Copper	0.16 mg/L	0.0332 mg/L	West Side of Facility
1/5/2016	Copper	0.049 mg/L	0.0332 mg/L	East Side of Facility
9/15/2015	Copper	1.8 mg/L	0.0332 mg/L	West Side Drain
9/15/2015	Copper	0.13 mg/L	0.0332 mg/L	East Side Drain
2015-2016 reporting year	Copper	0.38 mg/L	0.0332 mg/L	All discharge points ¹⁰
12/12/2014	Copper	12 mg/L	0.0332 mg/L	West Side Drainage
12/12/2014	Copper	0.058 mg/L	0.0332 mg/L	East Side Drainage
2/27/2014	Copper	0.085 mg/L	0.0332 mg/L	West Side Drainage
2/27/2014	Copper	1.9 mg/L	0.0332 mg/L	East Side Drainage
1/24/2013	Copper	0.039 mg/L	0.0332 mg/L	#1-Waste Treatment Area
1/24/2013	Copper	0.036 mg/L	0.0332 mg/L	#2-Guard Station at Gate
3/17/2012	Copper	0.309 mg/L	0.0332 mg/L	#1-Waste Treatment Area

⁹ This value represents the average of all iron measurements taken at the Facility during the 2015-2016 reporting year and is higher than 1.0 mg/L, the annual NAL for iron.

¹⁰ This value represents the average of all copper measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.0332 mg/L, the annual NAL for copper.

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3/11/2016	Silver	0.0032 mg/L	0.0183 mg/L	West Side of Facility
1/5/2016	Silver	0.095 mg/L	0.0183 mg/L	West Side of Facility
9/15/2015	Silver	0.74 mg/L	0.0183 mg/L	West Side Drain
9/15/2015	Silver	0.028 mg/L	0.0183 mg/L	East Side Drain
2015-2016 reporting year	Silver	0.145 mg/L	0.0183 mg/L	All discharge points ¹¹
12/12/2014	Silver	0.11 mg/L	0.0183 mg/L	West Side Drainage
2/27/2014	Silver	1.54 mg/L	0.0183 mg/L	East Side Drainage
3/17/2012	Silver	0.195 mg/L	0.0183 mg/L	#1-Waste Treatment Area
9/15/2015	Nickel	3 mg/L	1.02 mg/L	West Side Drain
12/12/2014	Nickel	29 mg/L	1.02 mg/L	West Side Drainage
2/27/2014	Nickel	21 mg/L	1.02 mg/L	East Side Drainage

The information in the above table reflects data gathered from Bristol's self-monitoring during the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet seasons as well as the 2015-2016 reporting year. OCC notes that the Facility exceeded the annual NALs for TSS, aluminum, cadmium, N+N, zinc, iron, copper, and silver during the 2015-2016 reporting year. OCC alleges that since at least January 6, 2012, Bristol has discharged storm water contaminated with pollutants at levels that exceed the applicable EPA Benchmarks and NALs for TSS, aluminum, cadmium, N+N, lead, zinc, iron, copper, silver, and nickel.

OCC's investigation, including its review of Bristol's Storm Water Pollution Prevention Plan ("SWPPP"), Bristol's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards, and EPA benchmark values and NALs, indicates that Bristol has not implemented BAT and BCT at the Facility for its discharges of TSS, aluminum, cadmium, N+N, lead, zinc, iron, copper, silver, nickel, and potentially other pollutants in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit. Bristol was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Bristol is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit. OCC alleges that such violations also have occurred and will occur on other rain dates, including on information and belief every significant rain event that has occurred since January 9, 2012, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit.

¹¹ This value represents the average of all silver measurements taken at the Facility during the 2015-2016 reporting year and is higher than 0.0183 mg/L, the annual NAL for silver.

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Attachment A, attached hereto, sets forth each of the specific rain dates on which OCC alleges that Bristol has discharged storm water containing impermissible and unauthorized levels of TSS, aluminum, cadmium, N+N, lead, zinc, iron, copper, silver, and nickel in violation of Section 301(a) of the Act as well as Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; and Effluent Limitation V(A), Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit.¹²

Further, OCC puts Bristol on notice that 2015 Permit Effluent Limitation V(A) is a separate, independent requirement with which Bristol must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Permit's Effluent Limitations, including Bristol's obligation to have installed BAT and BCT at the Facility. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.¹³ Finally, even if Bristol submits an Exceedance Response Action Plan(s) pursuant to Section XII of the 2015 Permit, the violations of Effluent Limitation V(A) described in this Notice Letter are ongoing.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Each discharge of storm water constitutes an unauthorized discharge of TSS, aluminum, cadmium, N+N, lead, zinc, iron, copper, silver, nickel, and polluted storm water associated with industrial activity in violation of Section 301(a) of the CWA. Each day that the Facility operates without implementing BAT/BCT is a violation of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Bristol is subject to penalties for violations of the General Permit and the Act since January 6, 2012.

B. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the Facility.

The 1997 Permit requires facility operators to develop and implement an adequate Monitoring and Reporting Program before industrial activities begin at a facility. See 1997

¹² The rain dates on the attached table are all the days when 0.1" or more rain was observed from a weather station at the Fullerton Municipal Airport located approximately 6.75 miles away from the Facility. The data was downloaded via <http://www.ncdc.noaa.gov/cdo-web/search>. (Last accessed on January 9, 2016).

¹³ The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. See 2015 Permit, Section XII

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Permit, § B(1). The 2015 Permit includes similar monitoring and reporting requirements. See 2015 Permit, § XI. The primary objective of the Monitoring and Reporting Program is to both observe and to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. An adequate Monitoring and Reporting Program therefore ensures that best management practices ("BMPs") are effectively reducing and/or eliminating pollutants at a facility, and is evaluated and revised whenever appropriate to ensure compliance with the General Permit.

Under the 1997 Permit, facilities must analyze storm water samples for "toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." 1997 Permit, Section B(5)(c)(ii). Under the 2015 Permit, facilities must analyze storm water samples for "[a]dditional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment." 2015 Permit, Section XI(B)(6)(c).

On information and belief, OCC alleges that hexavalent chromium is a pollutant likely to be present in Bristol's storm water discharges in significant quantities. On information and belief, OCC alleges that Bristol has never analyzed its storm water discharges for hexavalent chromium. This failure to analyze hexavalent chromium in each sampling event results in at least 14 violations of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Bristol is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since January 9, 2012.

C. Failure to Complete Annual Comprehensive Site Compliance Evaluation

The 1997 Permit, in relevant part, requires that the Annual Report include an Annual Comprehensive Site Compliance Evaluation Report ("ACSCE Report"). (Section B(14)). As part of the ACSCE Report, the facility operator must review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. The Annual Report must be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of his or her knowledge. The 2015 Permit now requires operators to conduct an Annual Comprehensive Facility Compliance Evaluation ("Annual Evaluation") that evaluates the effectiveness of current BMPs and the need for additional BMPs based on visual observations and sampling and analysis results. See 2015 Permit, § XV.

Information available to OCC indicates that Bristol has consistently failed to comply with Section B(14) of the 1997 Permit, and Section XV of the 2015 Permit. None of the Facility's ACSCE Reports provide an explanation of the Facility's failure to take steps to reduce or prevent high levels of pollutants observed in the Facility's storm water discharges. See 1997 Permit Receiving Water Limitation C(3) and C(4) (requiring facility operators to submit a report to the Regional Board describing current and additional BMPs necessary to prevent or reduce

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pollutants causing or contributing to an exceedance of water quality standards); see also 2015 Permit § X(B)(1)(b). The failure to assess the Facility's BMPs and respond to inadequacies in the ACSCE Reports negates a key component of the evaluation process required in self-monitoring programs such as the General Permit. Instead, Bristol has not proposed any BMPs that properly respond to EPA benchmark and water quality standard exceedances, in violation of the General Permit.

OCC puts Bristol on notice that its failures to submit accurate and complete ACSCE Reports are violations of the General Permit and the CWA. Bristol is in ongoing violation of Section XV of the 2015 Permit every day the Facility operates without evaluating the effectiveness of BMPs and the need for additional BMPs. These violations are ongoing. Each of these violations is a separate and distinct violation of the General Permit and the CWA. Bristol is subject to civil penalties for all violations of the CWA occurring since at least January 6, 2012.

D. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Under the General Permit, the State Board has designated the SWPPP as the cornerstone of compliance with NPDES requirements for storm water discharges from industrial facilities, and ensuring that operators meet effluent and receiving water limitations. Section A(1) and Provision E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP prior to beginning industrial activities that meet all of the requirements of the 1997 Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-stormwater discharges from the facility, and to implement BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges. *See* 1997 Permit § A(2); 2015 Permit § X(C). These BMPs must achieve compliance with the General Permit's effluent limitations and receiving water limitations. To ensure compliance with the General Permit, the SWPPP must be evaluated and revised as necessary. 1997 Permit §§ A(9), (10); 2015 Permit § X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. 2015 Permit Factsheet § I(1).

Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map; a list of significant materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-stormwater discharges, including structural BMPs where non-structural BMPs are not effective. Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP requirements as the 1997 Permit, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT, which serve as the basis for compliance with the 2015 Permit's technology-based effluent limitations. *See* 2015 Permit § X(H). The 2015 Permit further requires a more comprehensive assessment of

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potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. *See* 2015 Permit §§ X(G)(2), (4), (5).

The 2015 Permit requires dischargers to implement and maintain, to the extent feasible, all of the following minimum BMPs in order to reduce or prevent pollutants in industrial storm water discharges: good housekeeping, preventive maintenance, spill and leak prevention and response, material handling and waste management, erosion and sediment controls, an employee training program, and quality assurance and record keeping. *See* 2015 Permit, § X(H)(1). Failure to implement all of these minimum BMPs is a violation of the 2015 Permit. *See* 2015 Permit Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. *See* 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP Descriptions and a BMP Summary Table. *See* 2015 Permit § X(H)(4), (5). A Facility's BMPs must, at all times, be robust enough to meet the General Permit's and 33 U.S.C. ¶ 1342(p)(3)(A)'s requirement that all discharges associated with industrial activities be subjected to BAT and BCT. 2015 Permit §§ V(A), I(A)(1), I(D)(31), I(D)(32); 1997 Permit, Effluent Limitation B(3), Receiving Water Limitation C(3).

The SWPPP fails to comply with the requirements of Section X(H) of the 2015 Permit. The SWPPP fails to implement and maintain the required minimum BMPs for material handling and waste management. The SWPPP fails to implement sufficient advanced BMPs. The SWPPP fails to identify and justify each minimum BMP or applicable BMP not being implemented at the Facility because they do not reflect best industry practice considering BAT/BCT.

Most importantly, the Facility's storm water samples and discharge observations have consistently exceeded applicable water quality standards, EPA benchmarks and NALs, demonstrating the failure of its BMPs to reduce or prevent pollutants associated with industrial activities in the Facility's discharges. Despite these exceedances, Bristol has failed to sufficiently update and revise the Facility's SWPPP. The Facility's SWPPP has therefore never achieved the General Permit's objective to identify and implement proper BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges.

OCC puts Bristol on notice that it violates the General Permit and the CWA every day that the Facility operates with an inadequately developed, implemented, and/or revised SWPPP. These violations are ongoing, and OCC will include additional violations as information and data become available. Bristol is subject to civil penalties for all violations of the CWA occurring since January 6, 2012.

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III. Persons Responsible for the Violations.

OCC puts Bristol Industries, LLC, William Carrigan, Peter Szamosi, Ken Harter, and Richard French on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, OCC puts Bristol Industries, LLC, William Carrigan, Peter Szamosi, Ken Harter, and Richard French on notice that it intends to include those subsequently identified persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of Orange County Coastkeeper is as follows:

Garry W. Brown, Executive Director
Orange County Coastkeeper
3151 Airway Ave. Suite F-110
Costa Mesa, CA 92626
Tel. (714) 850-1965
garry@coastkeeper.org

V. Counsel.

OCC has retained legal counsel to represent it in this matter. Please direct all communications to:

Douglas J. Chermak
Michael R. Lozeau
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
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VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Bristol to a penalty of up to \$37,500 per day per violation for all violations occurring since January 9, 2012, up to and including November 2, 2015, and up to \$51,570 for violations occurring after November 2, 2015. In addition to civil penalties, OCC will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

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OCC believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. OCC intends to file a citizen suit under Section 505(a) of the Act against Bristol and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, OCC would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, OCC suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. OCC does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Douglas J. Chermak
Lozeau Drury LLP
Attorneys for Orange County Coastkeeper

SERVICE LIST – via certified mail

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Loretta Lynch, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Alexis Strauss, Acting Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

ATTACHMENT A
Rain Dates, Bristol Industries LLC, Brea, CA

1/21/2012	11/21/2013	7/19/2015
1/23/2012	11/29/2013	9/15/2015
2/15/2012	12/7/2013	10/4/2015
2/27/2012	12/19/2013	12/13/2015
3/17/2012	2/6/2014	12/19/2015
3/25/2012	2/27/2014	12/21/2015
4/11/2012	2/28/2014	12/22/2015
4/13/2012	3/1/2014	1/5/2016
10/11/2012	4/1/2014	1/6/2016
11/8/2012	4/2/2014	1/7/2016
11/17/2012	4/25/2014	1/31/2016
11/29/2012	10/31/2014	2/17/2016
11/30/2012	11/1/2014	2/18/2016
12/2/2012	11/30/2014	3/6/2016
12/3/2012	12/2/2014	3/7/2016
12/12/2012	12/3/2014	3/11/2016
12/13/2012	12/12/2014	10/17/2016
12/18/2012	12/17/2014	11/20/2016
12/24/2012	1/10/2015	11/21/2016
12/26/2012	1/11/2015	11/26/2016
12/29/2012	1/26/2015	12/15/2016
1/24/2013	2/22/2015	12/16/2016
1/25/2013	3/2/2015	12/21/2016
2/8/2013	4/7/2015	12/22/2016
2/19/2013	5/7/2015	12/23/2016
3/8/2013	5/8/2015	12/31/2016
5/6/2013	5/14/2015	1/5/2017
10/9/2013	5/15/2015	
11/20/2013	7/18/2015	